

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:10-HC-2066-FL

LEROY MILLER, )  
Petitioner, )  
v. ) ORDER  
TRACY JOHNS, )  
Respondent. )

On February 4, 2011, the court issued an order (DE #13) allowing petitioner fourteen (14) days to show cause why his case should not be dismissed in light of the holding in Timms v. Johns, 627 F.3d 525 (4th Cir. 2010). Petitioner did not file a response within the time specified in the order.

Accordingly, the petition for writ of habeas corpus is DISMISSED WITHOUT PREJUDICE. Respondent's motion to stay proceedings or in the alternative, motion to dismiss (DE # 10) is hereby DENIED AS MOOT. The Clerk is DIRECTED to CLOSE this case.

SO ORDERED, this 3 day of March 2011.

Louise W. Flanagan  
LOUISE W. FLANAGAN  
Chief United States District Judge